

Appl. No. 09/499,871  
Amdt. Dated November 28, 2005  
Reply to Office action of July 27, 2005

### **REMARKS/ARGUMENTS**

Claims 1-50 are pending in the present application.

This response is in response to the Office Action mailed July 27, 2005. In the Office Action, the Examiner rejected claims 1-50 under 35 U.S.C. §102(e). Reconsideration in light of the remarks made herein is respectfully requested.

#### ***Rejection Under 35 U.S.C. § 102***

1. In the Office Action, the Examiner rejected claims 1-51 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,272,107 issued to Rochberger et al. ("Rochberger"). Applicants respectfully traverse the rejection and contend that the Examiner has not met the burden of establishing a prima facie case of anticipation.

Rochberger discloses a method of path restoration in an ATM network utilizing point to point switched virtual circuits. A source node sends a restore\_setup message to a destination node (Rochberger, col. 14, lines 16-19). In response to this restore\_setup message, the destination node configures its hardware for loopback operation (Rochberger, col. 14, lines 22-24). Then, the destination node sends a restore\_confirm message to the source node (Rochberger, col. 14, lines 27-30). In response to the restore\_confirm, the source node programs its hardware to support loopback (Rochberger, col. 14, lines 38-40).

Rochberger does not disclose, either expressly or inherently, (1) a loop-back path to provide connectivity between the first and second nodes, the first node having a primary connection and a secondary connection, and (2) a switching element coupled to the loop-back path and the first node to switch the connectivity from the primary connection to the secondary connection when there is a failure condition at the primary connection.

Rochberger merely discloses that the Tx buffers are looped back to the Tx direction and the data that would be output to output port is looped back to the switching fabric, at a similar point as data input to the input port (Rochberger, col. 116, lines 16-19). Therefore, the loopback path does not provide connectivity between the first and the second nodes. Furthermore, Rochberger merely discloses that the source node attempts to calculate a secondary (redundant) path from the source node to the destination node (Rochberger, col. 14, lines 40-43). Therefore,

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there is no switch element to switch the connectivity from the primary connection to a secondary connection.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Vergeal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). Since the Examiner failed to show that Rochberger teaches or discloses any one of the above elements, the rejection under 35 U.S.C. §102 is improper.

Therefore, Applicants believe that independent claims 1, 11, 21, 31, and 41 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicants respectfully request the rejection under 35 U.S.C. §102(e) be withdrawn.

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### Conclusion

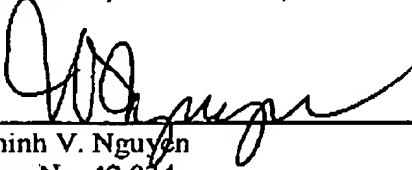
Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: November 28, 2005

By

  
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November 28, 2005

  
Tu Nguyen

Date